

JUL 22 1993

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of: )  
 )  
Modification of Section 22.1109 )  
of the Commission's Rules ) RM-\_\_\_\_\_  
Containing Reference Coordinates )  
for Air-to-Ground Telephone )  
Ground Stations )

To: The Commission

PETITION FOR RULEMAKING

Claircom Communications Group, L.P. ("Claircom"), GTE Airfone Incorporated ("GTE Airfone"), In-Flight Phone Corporation ("In-Flight"), Mobile Telecommunication Technologies Corp. ("MTel"), American Skycell Corporation ("Skycell"), and Jet-Tel Group, L.P. ("Jet-Tel") (collectively, "Petitioners"), by their attorneys and pursuant to Section 1.401 of the Commission's Rules, 47 C.F.R. § 1.401 (1992), hereby jointly request the Federal Communications Commission ("FCC" or "Commission") to initiate a rulemaking proceeding to amend the geographical coordinates of certain ground station locations set out in Section 22.1109 of the Commission's Rules, 47 C.F.R. § 22.1109 (1992). Under Section 22.1109, providers of air-to-ground ("ATG") telephone service must locate their ground stations within one mile of the reference coordinates listed in the rule.<sup>1/</sup> Petitioners respectfully request that the reference coordinates be amended for the following seven sites: Kenner, Louisiana; Nashville, Tennessee; Bedford, Texas; Kansas City, Missouri; San Jose, California; Cordova, Alaska; and Sitka, Alaska. As demonstrated below, the proposed changes are in the public interest

I. Introduction

When the Commission adopted rules for ATG telephone service licensees, GTE Airfone had been operating for a number of years as the only provider of ATG telephone service in the United States and had already

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<sup>1/</sup> Petitioners are the only authorized air-to-ground telephone service providers.

constructed ground stations throughout the country. Thus, in adopting rules governing the construction of ground stations, the Commission used the geographical coordinates of GTE Airfone's ground station sites as the basis of its site location plan in Section 22.1109, explaining that the adoption of this plan would help expedite the initiation of licensed service. Amendment of the Commission's Rules Relative to Allocation of the 849-851/894-896 MHz Bands, 5 FCC Rcd 3861, 3874 (1990).

The requirement of building ground stations within one mile of these coordinates was established to avoid harmful adjacent channel interference caused by Doppler frequency shifts that could result from "excess" ground station separation. Id. The Commission determined that requiring each ATG ground station to be constructed within one mile of a GTE Airfone site would avoid such excess ground station separation.<sup>2/</sup>

As discussed below, the requested modifications of Section 22.1109 are fully consistent with the one mile collocation rule because, in every case, the ground stations of all of the Petitioners have been or will be constructed within one mile of the proposed new reference coordinates. No current or future ATG service providers will be harmed by the requested amendments because none have initiated construction of a ground station that is located more than one mile from the proposed coordinates. As explained below, certain proposed amendments will enable Petitioners to avoid costly relocations of facilities which do not create inter-carrier interference but which technically do not currently comply with the Commission's Rules. Other proposed changes will replace coordinates which have been discovered to represent illogical locations with coordinates which are much more appropriate for ATG ground station locations. Thus, the proposed amendments are in the public interest.

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<sup>2/</sup> In adopting the one-mile collocation requirement, the Commission in effect permitted ground stations to be located up to two miles apart from each other, i.e., the distance between two ground stations that are located in the opposite direction of each other and located exactly one mile from the reference coordinates specified in Section 22.1109.

## II. Kenner, Louisiana

Petitioners request that the reference coordinates listed in Section 22.1109 for Kenner, Louisiana, be changed to the actual coordinates of GTE Airfone's constructed ground station site at Kenner. Currently, the reference coordinates for Kenner set forth in Section 22.1109 are 30° 00' 44" N. latitude and 90° 13' 30" W. longitude. However, the actual coordinates of GTE Airfone's constructed ground station are 30° 00' 27" N. latitude and 90° 13' 49" W. longitude.

Claircom's Kenner ground station is located 1.29 miles from the reference coordinates listed in Section 22.1109.<sup>3/</sup> Unaware that the reference coordinates did not correspond to GTE Airfone's actual site, Claircom selected its Kenner site relying on the address of GTE Airfone's Kenner site specified in GTE Airfone's FCC filings for Kenner and the corresponding coordinates that Claircom plotted for that address. The address and the plotted coordinates correspond to the actual location of GTE Airfone's ground station in Kenner.

Although Claircom's Kenner ground station is located more than one mile from the reference coordinates of Section 22.1109, it is located less than one mile (.85 mile) from GTE Airfone's actual site.<sup>4/</sup> Moreover, the coordinates of In-Flight's constructed ground station at Kenner, which is collocated with GTE Airfone's station, are the same as those of the GTE Airfone site. Thus, if Petitioners' proposed amendment is adopted, all three currently constructed ATG telephone ground stations would be in compliance with the one mile collocation rule.<sup>5/</sup> Moreover, this amendment would permit Claircom to avoid a very costly

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<sup>3/</sup> Claircom was granted Special Temporary Authority to operate its Kenner ground station at a distance greater than one mile from the reference coordinates of Section 22.1109 for a period of 180 days beginning February 26, 1993. See Letter to Cathleen A. Massey from John Cimko, March 11, 1993.

<sup>4/</sup> It should be noted that both GTE Airfone and In-Flight have filed an amended FCC Form 489 with the FCC to correct the erroneous coordinates that were originally filed.

<sup>5/</sup> MTel, Skycell, and Jet-Tel have not initiated construction of a ground station at Kenner.

relocation of its Kenner ground station and would cause no harm to any other parties.

### III. Nashville, Tennessee

Petitioners request that the reference coordinates listed in Section 22.1109 for Nashville, Tennessee, be changed to the following: 36° 08' 07" N. latitude and 86° 41' 39" W. longitude. Currently, the reference coordinates for Nashville listed in Section 22.1109 are 36° 08' 44" N. latitude and 86° 41' 31" W. longitude.

Claircom's Nashville ground station is located at 36° 07' 22" N. latitude and 86° 41' 20" W. longitude, a site which is 1.58 miles from the reference coordinates adopted by the Commission in Section 22.1109 for Nashville. Claircom constructed its Nashville ground station based on the mistaken belief that its site, which was chosen by a consultant hired by Claircom, complied with the one mile collocation requirement of Section 22.1109.6/

The proposed amended reference coordinates for Nashville represent a location that is within one mile of the constructed sites of GTE Airfone, Claircom, and In-Flight.7/ Thus, if Petitioners' proposed amendment is adopted, all three currently constructed ATG telephone ground stations at Nashville would be in compliance with the one mile collocation rule. In addition, this amendment would permit Claircom to avoid a very costly relocation of its Nashville ground station and would cause no harm to any other parties.

### IV. Bedford, Texas

Petitioners request that the reference coordinates listed in Section 22.1109 for Bedford, Texas be changed to the following: 32° 49' 45" N. latitude and 97° 07' 19" W. longitude. Currently, the reference coordinates for Bedford,

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6/ Claircom was granted Special Temporary Authority to operate its Nashville ground station at a distance greater than one mile from the reference coordinates of Section 22.1109 for a period of 180 days beginning February 26, 1993. See Letter to Cathleen A. Massey from John Cimko, March 11, 1993.

7/ The coordinates of In-Flight's ground station at Nashville are 36° 08' 31" N. latitude and 86° 42' 05" W. longitude. MTel, Skycell, and Jet-Tel have not initiated construction of a ground station at Nashville.

Texas listed in Section 22.1109 are: 32° 50' 19" N. latitude and 97° 08' 03" W. longitude.

GTE Airfone's Bedford, Texas ground station is currently located at the coordinates set forth in Section 22.1109 and is co-located with both Claircom and In-Flight. GTE Airfone is in the process of constructing its digital system and has found that the location at which it is currently operating will not support the additional facilities GTE Airfone wishes to construct.

The proposed amended reference coordinates for Bedford, Texas represent a location that is within one mile of GTE Airfone's proposed ground station and the existing constructed sites of Claircom and In-Flight.<sup>8/</sup> Thus, if Petitioners' proposed amendment is adopted, all three currently constructed ATG telephone ground stations at Bedford, Texas would be in compliance with the one mile construction rule. Additionally, this amendment would provide flexibility for locating facilities in the area and would cause no harm to any other party.

V. Kansas City, Missouri

Petitioners request that the following coordinates listed in Section 22.1109 of the Commission's Rules for Kansas City, Missouri be changed to the following: 39° 18' 13" N. latitude and 94° 41' 04" W. longitude. Currently, the reference coordinates for Kansas City listed in Section 22.1109 are 39° 18' 37' N. latitude and 94° 41' 07" W. longitude.

The actual coordinates of In-Flight's constructed ground station are 39° 17' 41" N. latitude and 94° 40' 56" W. longitude, a site which is 1.09 miles from the reference coordinates adopted by the Commission in Section 22.1109 for Kansas City. In-Flight constructed its Kansas City ground station based on erroneous coordinate calculations, believing at the time that it complied with the one mile collocation requirements of Section 22.1109.

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<sup>8/</sup> MTel, Skycell and Jet-Tel have not initiated construction of a ground station at Bedford, Texas.

The proposed amended reference coordinates for Kansas City represents a location that is within one mile of the constructed sites of GTE Airfone, Claircom, and In-Flight. MTel, Skycell and Jet-Tel have not initiated construction of a ground station at Kansas City. Thus, if Petitioners' proposed amendment is adopted, all three currently constructed ATG telephone ground stations at Kansas City would be in compliance with the one mile collocation rule.

**VI. San Jose, California**

On September 20, 1991, In-Flight filed an FCC Form 401 application to add San Jose, California to the list of approved sites in Section 22.1109 of the Commission's Rules. The Commission granted In-Flight's application on February 7, 1992 (see FCC File No. 20620-CG-P/L-01-92). On February 24, 1993, In-Flight filed an amendment to its San Jose authorization to correct the coordinates originally specified on its application and listed on its authorization.

Although the Commission has not yet amended Section 22.1109 to reflect the addition of the San Jose, California site, the Petitioners herein request that the coordinates filed with In-Flight's February 24, 1993 amendment be listed in Section 22.1109 as the reference coordinates for the San Jose, California site. They are: 37° 20' 56" N. latitude and 121° 53' 57" W. longitude.

**VII. Cordova, Alaska**

Petitioners request that the reference coordinates listed in Section 22.1109 for Cordova, Alaska, be changed to the following: 60° 29' 40" N. latitude and 145° 28' 10" W. longitude. Currently, the reference coordinates for Cordova listed in Section 22.1109 are 60° 33' 00" N. latitude and 145° 43' 00" W. longitude.

The reference coordinates listed in Section 22.1109 for Cordova represent a location which is far -- approximately 13 miles -- from the Cordova

airport. In addition, there is a mountain between this location and the airport. Thus, the reference coordinates listed in Section 22.1109 specify a location which is an illogical and inappropriate site for an ATG ground station. The proposed new reference coordinates represent a location at the airport, which is an appropriate site because it will enable ATG service providers to provide optimum coverage. Moreover, no current or future ATG service providers will be harmed by the proposed change because no ATG provider has initiated construction of a ground station at Cordova.

#### **VIII. Sitka, Alaska**

Petitioners request that the reference coordinates listed in Section 22.1109 for Sitka, Alaska, be changed to the following: 57° 03' 04" N. latitude and 135° 20' 17" W. longitude. Currently, the reference coordinates for Sitka listed in Section 22.1109 are 57° 03' 30" N. latitude and 135° 22' 01" W. longitude.

The reference coordinates listed in Section 22.1109 for Sitka represent a location which is in fact in Sitka Harbor. Thus, the reference coordinates represent a site where an ATG ground station can not be constructed. The proposed new reference coordinates represent a location in Sitka, which is a logical and appropriate site. Clearly, no current or future ATG service providers will be harmed by the proposed change because no ATG provider has initiated construction of a ground station at the location represented by the current reference coordinates for Sitka.

#### **IX. Conclusion**

As discussed above, all of the requested amendments of the reference coordinates listed in Section 22.1109 are fully consistent with the one mile collocation rule and thus serve the Commission's goal of preventing inter-carrier interference caused by Doppler frequency shifts that could result from excess ground station separation. No current or future ATG service providers will be harmed by the requested amendments because no one has initiated construction of

a ground station that is located more than one mile from any of the proposed coordinates. Certain proposed amendments will enable Petitioners to avoid costly relocations of facilities which do not create interference but which technically do not currently comply with the Commission's Rules. By avoiding these costs, Petitioners will be able to use their resources more efficiently to serve the public. Other proposed changes will replace coordinates which have been discovered to represent illogical or infeasible locations with coordinates which will enable ATG service providers to construct ground stations that will provide optimum service coverage. Thus, the proposed changes are in the public interest.

For the foregoing reasons, Petitioners respectfully request the Commission to adopt a Notice of Proposed Rule Making consistent with the recommendations contained herein.

Respectfully submitted,

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July 22, 1993

CERTIFICATE OF SERVICE

I, Dayle L. Jones, a secretary in the law firm of Akin, Gump, Strauss, Hauer & Feld, L.L.P., certify that copies of the PETITION FOR RULEMAKING, were hand deliver on this 22nd day of July, 1993 to the following:

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